



JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

HONORABLE JOHN D. BATES
Secretary

September 10, 2013

The President
The White House
Washington, DC 20500

Dear Mr. President:

I write on behalf of the Judicial Conference of the United States to seek assistance in ensuring that the Federal Judiciary receives sufficient funding in fiscal year (FY) 2014 to enable it to meet its constitutional and statutory obligations. Several years of flat funding, followed by the sequestration cuts that took effect March 1, 2013, have had a devastating impact on court operations nationwide. A hard freeze at post-sequestration levels in FY 2014 will necessitate an additional five percent cut to the Judiciary, further diminishing all facets of court operations.

Sequestration reduced final enacted appropriations for the Judiciary for FY 2013 by nearly \$350 million. In order to fund increases to must-pay expenses such as judges' compensation and GSA rent, funding allocations to court units had to be cut 10 percent below the FY 2012 level. As a result, clerks of court and probation and pretrial services offices have downsized by approximately 1,000 personnel. Staffing in these same offices had already been reduced, resulting in a loss of nearly 2,500 employees between July 2011 and August 2013, representing almost an 11 percent staffing loss to the Judiciary over this period. In addition to losing staff, the courts have already incurred 4,500 furlough days as of June 2013, and an additional 4,100 furlough days are projected by the end of the fiscal year. These losses are resulting in the slower processing of civil and bankruptcy cases, which impacts individuals and businesses seeking to resolve disputes in federal courts.

The funding reductions have also put public safety at risk. Staffing in probation and pretrial services offices is down seven percent since 2011 at a time when the number of convicted offenders under the supervision of federal probation officers hit a record 187,311 in 2012 and is on pace to reach 191,000 in 2014. In addition, a 20 percent cut had to be made to the funding for drug, mental health, and sex offender treatment, as well as to drug testing services for offenders, searches, and electronic and GPS monitoring.

But the most significant impact of the budget cuts and sequestration thus far has been the reduction in funding for Defender Services. Federal defender organizations (FDOs) and private panel attorneys fulfill the mandate of the Sixth Amendment and the Criminal Justice Act (CJA). Because the Constitution requires that we must provide counsel for indigent defendants, the only options for absorbing the more than \$50 million cut to the Defender Services account are reducing FDO staffing levels through layoffs and furloughs, or deferring or reducing payments to private CJA panel attorneys.

For FY 2013, the Judiciary applied the \$51 million reduction to Defender Services by requiring a suspension of payments to private panel attorneys for the last three weeks of the fiscal year, while the FDOs had to make staffing reductions and impose furloughs on remaining employees for an average of 15 days over the last half of the fiscal year. Between October 2012 and June 2013, FDOs downsized by more than 6 percent. Since March, their remaining employees have been furloughed for over 12,500 days. We can already see the impact of FDO staffing reductions in our courts. As one example, the federal defender office in New York recently asked to postpone the trial of alleged terrorist Sulaiman Abu Ghaith, Osama bin Laden's son-in-law.

Concerned about an impending shortfall of funding in FY 2014 for Defender Services, we recently took emergency action to preserve the indigent criminal defense function by committing to provide FY 2014 funding for federal defender organizations at a level sufficient to maintain nationwide the projected on-board staffing as of the end of September 30, 2013. Absent the receipt of additional funding in FY 2014, achieving this objective will require reductions to the private panel attorney program. Specifically, up to four weeks of panel attorney payments that otherwise would be payable in FY 2014 will have to be deferred into FY 2015. In addition, the panel attorney compensation rate, for work performed from September 1, 2013, through September 30, 2014, will be reduced on a temporary emergency basis, by \$15.00 per hour, for capital and non-capital case representations.

Under Article III of the Constitution, the Federal Judiciary is responsible for fairly and effectively adjudicating criminal and civil cases. We do not have projects or programs to cut; for us, the cuts directly impact people. We must adjudicate all cases that are filed with the courts, we must protect the community by supervising defendants awaiting trial and criminals on post-conviction release, we must provide qualified defense counsel for defendants who cannot afford representation, we must pay jurors for costs associated with performing their civic duty, and we must ensure the safety and security of judges, court staff, litigants, and the public in federal court facilities. Our workload does not diminish because of budget shortfalls.

Over the years, with the support of Congress and the White House, the Judiciary has been able to forge and maintain one of the most respected justice systems in the world. We are greatly concerned, however, that our constitutional duties, public safety, and the quality of our nation's justice system will be profoundly compromised if sufficient funding is not provided to the Judiciary in FY 2014.

I am enclosing a copy of a letter dated August 13, 2013, to the congressional leadership signed by the Chief Judges of 87 federal district courts describing in greater detail the impact sequestration has had on the operation of the Federal Judiciary. It is a powerful statement of what further budget reductions will mean for federal courts across the country.

In the months ahead, you and the Congress will seek to negotiate final appropriations to fund the federal government for FY 2014. The Judiciary will not have a seat at the table during these budget discussions. It is essential that someone speak for the Judiciary, and I respectfully ask that the Administration help make the case for an increase in funding above the FY 2013 post-sequestration level for the Judiciary. I hope that you and the Congress will recognize the uncontrollable nature of our workload and provide the resources necessary for the Judiciary to perform its essential constitutional functions.

Sincerely,

John D. Bates
Secretary

Enclosure

cc: Attorney General Eric H. Holder, Jr.
White House Chief of Staff Denis McDonough
White House Counsel Kathryn Ruemmler
Office of Management and Budget Director Sylvia Mathews Burwell